

April 1, 2006

PIM #06-01

MEMORANDUM

TO: District Directors
Environmental Health Managers
Food Standardization Officers
Division of Food and Environmental Services Staff

FROM: Gary L. Hagy, Director
Division of Food and Environmental Services

SUBJECT: Condemnation and Impoundment of Food

The attached PIM describes the Department's policy and procedure for the condemnation and impoundment of food.

Please insert this document in your PIM manual and distribute copies to all persons in your district working in your foodservice protection programs. This PIM is effective 1 April, 2006.

If you have any questions, please contact me.

Attachment

Program: Foodservice Protection

Subject: Procedure for Condemnation and Impoundment of Food

Authority: Virginia Department of Health *Food Regulations (Regulations)* §12 VAC 5-421-3960

Background: The *Regulations* address the requirements for condemnation and impoundment of food, but do not provide procedural details. This document outlines the procedures to follow when food is condemned and impounded.

- Procedure:**
1. Adhering to the time limits imposed by the regulations, the Department may issue a condemnation notice and impound food that:
 - A. Originates from an unapproved source;
 - B. May be unsafe or adulterated;
 - C. Is not labeled according to applicable regulations, or, if raw molluscan shellfish, has no documented shellstock tag as prescribed by the *Regulations*;
 - D. Is not properly and clearly date marked for disposition;
 - E. Constitutes an imminent health hazard; or
 - F. Is otherwise not in compliance with the *Regulations*.
 2. When conducting an inspection of a food establishment, if the owner, permit holder or person in charge (PIC) refuses to denature or destroy food which is: suspected of originating from an unapproved source; being unsafe or adulterated; not being labeled according to applicable regulations; not being properly and clearly date marked; constituting an imminent health hazard; or is otherwise not in compliance with the *Regulations*, the environmental health specialist will advise the owner, permit holder or PIC that condemnation and impoundment procedures will be initiated.
 3. The environmental health specialist will immediately notify the environmental health manager, supervisor, or health director of the conditions leading to the request to denature or destroy the food and the owner's, permit holder's or PIC's refusal to take such action. The environmental health specialist will request approval to initiate condemnation and impoundment procedures.
 4. If the condemnation and impoundment procedure is approved, the environmental health specialist will inform the owner, permit holder or PIC by written notice (LHS 152 Inspection Report or similar document) of the food to be condemned and impounded. The notice shall identify the food by the label information, container description, quantity and location. The notice shall also state the reason for the condemnation and impoundment, with reference to the applicable provisions of the *Regulations*, and the procedures for impoundment.

5. The notice shall state that the food subject to impoundment shall not be used, sold, moved from the food establishment, or destroyed without permission from the Department. Samples may be taken by the owner, permit holder, PIC or Department for laboratory analysis.
6. The food shall be sealed by the use of masking tape, sealing wire or other reasonable means to prevent use of the food. The environmental health specialist shall mark the food or container with a tag or tape bearing the date of the impoundment and his or her signature. (An impoundment label template is attached for use with an Avery 5163 label.) Note: If using tape, the environmental health specialist should write across the surface of the tape with a permanent marker to detect any removal and resealing of the tape.
7. The notice shall state the permit holder has a right to request a hearing on the condemnation and impoundment by submitting a request to the health director within 10 days. If no hearing is requested, the food shall be destroyed or denatured by the owner, permit holder or PIC.
8. If a request for a hearing is not received, or as a result of the hearing the permit holder is required to destroy or denature the food, the food will be destroyed or denatured after receiving approval from the Department.

Responsibility: The district environmental health manager, standardization officer, and the standardized environmental health specialists are responsible for implementing this procedure.

Effective Date: 1 April 2006

Approved by: _____

Attachment: Food Impoundment Label Template for Avery 5163 Label